

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MAR 28 2011

LAWRENCE K. BAERMAN, CLERK
ALBANY

United States of America
UNITED STATES OF AMERICA
Purported Plaintiffs

CRIMINAL COMPLAINT Case No.1:10-MJ-0572-RFT
INDICTMENT
Criminal Action No.1:10-CR-0571 (GLS)
Vio: 18 U.S.C. §922(g)(1) & §924(a)(2)

v.

VON SCOTT LINDAHL, Purported Defendant
Von Scott of the Lindahl clan/family,
Defendant in error, *sui juris*

Affidavit
Dated; 03/28/2011

In the Nature of a Dilatory Petition to the COMPLAINT and INDICTMENT

- 1) **COMES NOW**, In fact Von Scott of the Lindahl clan/family, (herein after known as Von) All rights reserved, by limited appearance, sentient man, sovereign American, non-infant, gives notice to this court of the following facts:

In fact Von, discharges any and all presumed liabilities without prejudice in like manner as within the Uniform Commercial Code ["UCC"]. If I have given the appearance of being indebted to government, it is because I had no recourse no remedy available, therefore no fault or liability, discharge in like manner of the [UCC] and any and all contracts that have had any presumption of legal and or lawful effect are now null and void as they were not entered into knowingly, willingly and intentionally with full disclosure and/or under threat duress and coercion, misrepresentation and/or fraud on the part of the purporting opposing party.

- 1) **To certain protections; The Constitution for the united States of America;
Article VI – Supremacy clause.**

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

- 2) This NOTICE is to inform the court that I must obtain information and my property, including but not limited to Legal documentation, Books, Service dogs, autos, trucks, motorcycles, tools, and other things not in this list, that at this time are being

held from me and is at my former Apartment. The Legal documentation is necessary for my lawful and legal proper defense, as much of the papers, books, legal documents and files I had are located at my former Apartment: therefore a Writ in the Nature of a Replevin may be necessary to secure same;

- 3) No action can be commenced that has been based on fraud!
- 4) My right to the "Real Law is applied" in all actions against me. **Real Law**; a law which relates to specific property, whether movable or immovable. Laws purely real directly and indirectly regulate property and the rights of property, without intermeddling with or changing the state of the person.
- 5) In fact Von Scott of the Lindahl clan/family has always reserved my Unalienable rights as they are my property.
- 6) My right to prevent all officious intermeddlers from effectuating any against me. **Officious intermeddler**: a person who confers a benefit on another without being requested or having a legal duty to do so and who therefore has no legal grounds to demand restitution for the benefit conferred.
- 7) My right to ensure legal fiction is not applied in any action against me. **Legal fiction**; an assumption that something is true even though it may be untrue, made esp. in judicial reasoning to alter how a legal rule operates; specif., a device by which a legal rule or institution is diverted from its original purpose to accomplish indirectly some other object.
- 8) I respectfully request to ensure the court understands my standing and that questions of fact concerning who are the true parties with in this action and The question as to the Jurisdiction be proven by the party asserting its existence as in Unicon Management corp. v. Kopper company 250 F. Supp. 850 (1966).
- 9) To ensure the court and the purported parties have the complete understanding of the definitions of the words with in the statutes as well as other words and/or phrases that may or may not be conspicuous.
- 10) In the case UNITED STATES v. LOPEZ, (1995)

Historically, both the federal and state governments have legislated criminal codes,

but the public's recently heightened awareness and anxiety over crime has shifted the balance of power towards the federal end by spurring a new wave of federal crime law concerning conduct traditionally left to the states to control. However, the case law from recent Supreme Court decisions such as **United States v. Lopez and Printz v. United States** shows a movement on the part of the Justices to check this new trend of "federalizing" crime.

The Gun-Free School Zones Act of 1990, challenged in the *Lopez* case, made it a federal crime for "any individual knowingly to possess a firearm at a place that [he] knows . . . is a school zone."⁶

The respondent challenged the constitutionality of the Act, claiming that it exceeded Congress' power under the Commerce Clause. The government based its defense of the law on the precedent set by *Perez v. United States*, which allows federal regulation of those intrastate activities which are found, in the aggregate, to affect interstate commerce.

However, the Court invalidated the law on the grounds that not only was gun possession not an activity which substantially affected interstate commerce, but it, in fact, was not a commercial activity at all:

"Section 922(q) is a criminal statute that by its terms has nothing to do with 'commerce' or any sort of economic enterprise, however broadly one might define those terms. Section 922(q) is not an essential part of a larger regulation of economic activity."

The Court's second objection to the Act concerned its lack of any jurisdictional element "which would ensure, through case-by-case inquiry, that the firearm possession in question affects interstate commerce."

In other words, the Act allowed federal prosecution of cases even where that particular firearm possession had no impact whatsoever upon interstate commerce.

The *Lopez* decision opened the door for challenges to other previously settled laws. For example, by establishing family law as "a paradigmatic example of lawmaking power beyond the constitutional competence of the federal government," it is hardly surprising that "in light of *Lopez*, a number of district courts have heard challenges" to such legislation as the Child Support Recovery Act of 1992. However, it must be noted that for all its significance, *Lopez* is not at all a deviation from previous Commerce Clause jurisprudence: "[The] Court did not reject the 'substantial effects' test. Rather the Court supplemented the test with a requirement that the regulated activity have a commercial or economic nature."

In fact, examining the reasons behind the Court's finding in *Lopez* suggests that, had Congress (1) included a jurisdictional element to limit the scope of the legislation to those cases of an interstate nature, or (2) formally shown an impact "upon interstate commerce of a gun in a school zone," the legislation might have been upheld.

11) If I were to be found to be the principal for the legal entity VON SCOTT LINDAHL

this action still fails on its face as the mere possession has nothing to do with commerce.

12) My contention is that, given the facts and law cited within this affidavit:

- a) That the agency A.T.F. and agent Francis J. Neeley has no standing or authority to make the complaint.
- b) That the prosecutor is without standing to bring the purported complaint to the grand jury and/or to convene the grand jury.
- c) That Von Scott of the Lindahl clan/family is without standing to make a plea and/or to otherwise enter into the purported action.
- d) That the court is without authority to hear and/or entertain, jurisdiction or standing to offer, enter and/or make a plea in the purported action,

13) Being Statutes must be narrowly construed. The statute definitions found herein are consistent with constitutional restrictions and limitations

14) The defining language constructing the "crime" described by Title 18 section 922(g)(1) is found at Title 18 section 921. The key terms: "Person/Whoever", "State", "interstate (or "foreign") commerce" are found therein and are defined as follows:

TITLE 18 PART I CHAPTER 44 § 921. Definitions

(a) As used in this chapter—

- (1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.*

Legal entity. *A body; other than a **natural person**, that can function legally, sue or be sued, and make decisions through agents [a typical example is a corporation] See: **Black's law 9th***

- (2) *The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).*

Possessions of the United States of America:

- Howland, Baker, and Jarvis Islands - since 1857 (original purpose of acquisition: guano production)
- Navassa Island - since 1857 (original purpose of acquisition: guano production)
- Johnston Island - since 1858 (original purpose of acquisition: guano production)
- Midway Atolls - claimed in 1876, annexed in 1908 (original purpose of acquisition: military significance)
- Palmyra Atoll - since 1898 (original purpose of acquisition: was part of the Hawaii acquisition)
- Wake Islands - since 1898 (original purpose of acquisition: military significance)
- Guantanamo Bay - since 1898 (original purpose of acquisition: military significance)
- Kingman Reef - since 1922 (original purpose of acquisition: stopping point for air traffic)

15) In the Indictment the word "Queensbury" is not defined and the word "State" is not defined as to what "State" it is; as clearly established within the term "State" in § 921. Definitions "*State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).*

16) Includes and including within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227, 228

17) The Northern District of New York is not defined within the aforementioned definition.

18) It is the obligation of the purported plaintiff United States of America to match the venue in which the purported crime occurred with the jurisdiction of the governmental unit to prosecute any perpetrator. *(where the United States District Court was without jurisdiction to prosecute soldiers for rape committed on an army base prior to the filing of the acceptance of jurisdiction required by 40 U.S.C. § 3112); United States v. Wicks, 132 F.3d 383, 387 (7th Cir. 1997); United States v. Johnson, supra; United States v. Tully, 140 Fed. 899 (C.D.C.D. Mont. 1905). The criminal jurisdiction of the purported plaintiff United States of America extends to private lands over which legislative jurisdiction has been vested in the Government, as well as to federally owned lands. United States v. Unzeuta, 281 U.S. 138 (1930), as stated in the report at page 106*

19) *The lands in question where the said state arrest occurred, were not lands of the United States.*

20) Territorial jurisdiction is defined at 18 U.S.C.S. § 7, in pertinent part, as existing in:

- (3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine arsenal, dockyard, or other needful building.

21) Given the above definitions, which this court recognizes, it is clear that the lawful authority of the ATF is "interstate or foreign commerce" within a "State" which is ONLY the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States and territorially limited, again, to *the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone) The possessions of the United States are known to be Baker Island to Wake Island which excludes all states of the American Union.*

22) Given the limitations imposed by the points above, it is clear that the ATF/agent thereof had no lawful authority to make a "Complaint" against me in any state of the American Union.

- 23) Given the limitations imposed by the points above, it is clear that the US Prosecutor, with a superior knowledge of the law, had no standing to convene the Grand Jury (typically composed of people with virtually no knowledge of the law) in this purported action; and/or to possibly mislead the Grand Jury and/or possibly fail to disclose and/or possibly misrepresent key facts and law, the absence of which would cause the Grand Jury to issue a void true bill. Conversely, should the Grand Jury have been fully informed; an Indictment would never have been issued.
- 24) The court must point out all conspicuous words and/or phrases
- 25) It appears to me the UNITED STATES OF AMERICA is a CORPORATION with the specific technical meaning of the word **person** as defined within the Uniform Commercial Code [UCC]. See Merrill v. Federal Crop Insurance
- 26) By and through Agents RICHARD S. HARTUNIAN UNITED STATES ATTORNEY AND RICHARD D. BELLIS ASSISTANT U.S. ATTORNEY legal entity another **person** with the specific technical meaning of the word **person** as defined within the [UCC].
- 27) Complains against the **defendant** "person" is a technical meaning of the word **person** defined within the statute, and the [UCC].
- 28) "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim and is a technical meaning, of the word **person** as defined within the [UCC].
- 29) In fact Von is not a person, individual, corporation, company, association, firm, partnership, society, or joint stock company.
- 30) In fact Von Scott of the Lindahl clan/family understand, that in the purported plaintiffs' purported agents' and the courts' professional and ministerial duties and implications that it is well known, every word and/or phrase must have its own specific meaning to prevent the law from being void for vagueness hence;
Definitions are not inconsequential.
- 31) The following are the issues clarifying the purported plaintiffs' want of standing.

- 32) The nature of the want of standing is that the purported plaintiff has chosen to exercise jurisdiction conferred in an action to which the statute has no application, without my consent, proof of which must be by way of a contract entered in to knowingly, willfully, and intelligently with full disclosure, furthermore I do not consent.
- 33) **In order for the purported plaintiff to exercise any jurisdiction in the purported statutory action, against in fact Von Scott of the Lindahl clan/family the man and/or VON SCOTT LINDAHL the legal entity** the person in the title of the purported arrest warrant, complaint, and indictment, there must be facts and evidence to show that in fact Von Scott of the Lindahl clan/family the man is the man responsible as the principal for the [person "legal entity" **VON SCOTT LINDAHL.**] This contract must be in evidence submitted to the court. I have not knowingly, willfully and intentionally entered into such a contract and it is my unalienable common law right to challenge the existence of it.
- 34) Thus in order for the purported plaintiff to have any jurisdiction by virtue of the statutes they are applying to the purported action, the purported complaint, arrest warrant, and indictment. The purported plaintiff must prove that **in fact Von Scott of the Lindahl clan/family the man** knowingly, willfully, and intentionally with full disclosure, entered into a contract to create **VON SCOTT LINDAHL the legal entity** in the purported particular action, which I did not;
- 35) Without providing facts and evidence of the requisite prior information being brought before the court, the court could not have any authority to even entertain the particular action. The court cannot further entertain the action as there is the clear want of standing;
- 36) The want of standing is the issue at hand in the purported plaintiffs' particular action afore mentioned. When standing does not exist, there is no subject matter jurisdiction, and the court cannot review the purported plaintiffs' claim clearly rendering the entire action void from the beginning. Standing is critical to the proper functioning of the judicial system. It is the threshold issue. When standing does not exist, the pathway to the courthouse is blocked.

- 37)** It is the rule of law to allow only an aggrieved party or a legally and lawfully authorized agent to bring an action. In this Article III compliant court standing requires an injury that is actual and concrete not speculative or conjectural. *Lujan v. defenders of Wildlife*, 504 U.S. 555, 560-61 1992
- 38)** The UNITED STATES OF AMERICA nor any Agent was a fact witness to any crime nor do any claim to have an injury that is actual and concrete;
- 39)** The want of standing there to is a fatal jurisdictional defect.
- 40)** The courts therefore have no jurisdiction of the action when such a party purports to bring it.
- 41)** Clearly without standing to bring the above mentioned action, against me, in fact Von Scott of the Lindahl clan/family the man. If it does bring an action against a person as defined in the private law, statutes that they quote. They must bring forth the contract that binds the two parties thus creating the clear standing and understanding to either side of the controversy that then the complainant has a proper place to redress its grievance.
- 42)** A court shall not render a judgment which transcends the limits of its authority, and a judgment is void if it is beyond the powers granted to the court by the law of its organization, even where the court has jurisdiction over the parties and the subject matter. Thus, when a court is authorized by statute to entertain jurisdiction in a particular action only, and undertakes to exercise the jurisdiction conferred in an action to which the statute has no application, the judgment rendered is void. (46 Am. Jur. 2d, Judgments §25, pp. 388-89.)
- 43)** If I was indicted, I was not informed of any hearing, and thus was denied the opportunity to testify before the Grand Jury. That makes any indictment invalid, as I am by right entitled to present my information to the Grand Jury as in your FRCP Rules 7 and 58(b)(1): Rule 7. The Indictment and the Information (a) When Used. (1) Felony. An offense (other than criminal contempt) Must be prosecuted by an indictment if it is punishable: (A) by death; or (B) by imprisonment for more than one

year. 1 (2) Misdemeanor. An offense punishable by imprisonment for one year or less may be prosecuted in accordance with Rule 58(b)(1). 58 (b) Pretrial Procedure. (1) Charging Document. The trial of a misdemeanor may proceed on an indictment, information, or complaint. The trial of a petty offense may also proceed on a citation or violation notice. Not to mention the protection written in the constitution for the united states of America.

CONCLUSION

44) I request that the courts (responsibility and lawful duty to) protect all of the Petitioners Rights, see United States v. Lee, 106 US 196, 220 [1882], right to due process and right to an impartial and disinterested arbiter;

"The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affect individuals in the decision making process. See *Carey v. Pipus*, 435 U.S. 247, 259-262, 266-267 (1978). ***The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law.*** See *Mathews v. Eldridge*, 424 U.S. 319, 344 (1976). At the same time, it preserves both the appearance and reality of fairness, "generating the feeling, so important to a popular government, that justice has been done," *Joint Anti-Fascist Committee v. McGrath*, 341, U. S. 123, 172 (1951) (Frankfurter, J., concurring), by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him. THIS REQUIREMENT OF NEUTRALITY HAS BEEN JEALOUSLY GUARDED BY THIS COURT. *Marshall v. Jerrico Inc.*, 446 U.S. 238, 242; 100 S. Ct. 1610; 64 L. Ed. 2d 182, (1980). [emphasis added.]

45) The court cannot further entertain the purported plaintiffs' action as there is the clear want of standing of them to forward the action.

46) The court is in absolute complete want of jurisdiction in the purported plaintiffs' particular action.

47) There is no discretion to ignore lack of jurisdiction (*Joyce v. U.S.* 474 2D 215).

48) It is the courts sua sponte ministerial duty to vacate the purported plaintiffs' void purported action for want of standing.

- 49) The judgment of the court to entertain the purported plaintiffs' purported complaint and INDICTMENT is the judgment that would transcend its authority, therefore rendering the action void.
- 50) All superficial imperfections are required to be excused as this petition has not been prepared by any attorney and is presented by the undersigned for redress of grievance.

REMEDY:

- 51) The court has limited options left: void purported plaintiffs' action for absolute want of standing.

As Petitioner, affaint;

Von Scott of the Lindahl clan/family All Rights Reserved
In fact Von Scott of the Lindahl clan/family, All rights reserved.

Return address of in fact Von Scott of the Lindahl clan/family
In care of; Robert Keller
At 6134 Rout 9N
Corinth state of New York ([near] 04240)

Verified on this the 28 day of MARCH, two thousand and eleven (2011).

Notary Public acknowledgement is not for entry into foreign jurisdiction.

Before me, BRIAN FOSCO a Notary Public in and for the
County of Warren, state of New York;

Appeared Von Scott of the Lindahl clan/family known and made known to me did
affirm the truth of the facts herein stated and placed his signature on this document
on this the 28 day of MARCH two thousand and eleven [2011].

[Signature]
Notary Public Signature

My commission expires; 1-28-12

BRIAN FOSCO
Notary Public - State of New York
No. 01-F06181246
Qualified in Warren County
My Commission Expires January 28, 2012